

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MYRISSA D. NOSAL,

Plaintiff,

vs.

LATRICE MARTIN, APRN-CNM; RACHAEL
RICE, APRN-CNM; and THE MIDWIFE'S
PLACE LLC,

Defendants.

8:18CV14

ORDER

This matter is before the Court on the defendants' second motion, [Filing No. 84](#), for reconsideration of the Court's ruling on the plaintiff's motion in limine, [Filing No. 78](#).

Defendants seek a ruling on the plaintiff's Motions in Limine Nos. 17, 18, and 19. Defendants contend they did not concede the motions, and addressed them in their brief in opposition to the motion, but the Court did not address them in its order.

In Motions in Limine Nos. 17, 18, and 19, the plaintiff sought preclusion of reference to plaintiff's use or suspected use of marijuana, alcohol or narcotics, to hearsay statements contained in the plaintiff's medical records, and to the plaintiff's request to have her dog present during the birth of her child. [Filing No. 58](#) at 5. In response to the motion, the defendants contended the evidence of marijuana, alcohol or narcotics use is relevant to the plaintiff's credibility, damages, and her pain management and to the credibility of her experts. Defendants asked the Court to reserve ruling on the motion directed at hearsay in medical records. They also argued that the evidence of the dog request is relevant as part of the overall narrative of the

care provided by the defendants; to explain why the plaintiff disliked one of the midwives: to the plaintiff's credibility and approach to health care; and to damages.

The Court finds the motions are more in the nature of objections to be raised at trial. The Court is unable to assess the relevance of the evidence in the context of a motion in limine. The Court notes, however, that evidence will be admitted only if it is relevant to an issue in the case and its relevance outweighs the potential for prejudice. Evidence of drug or alcohol use can be unduly prejudicial, so the defendants must make a strong showing of relevance. The Court agrees it is appropriate to reserve ruling on the hearsay issue. Accordingly,

IT IS ORDERED

1. The defendants' motion for reconsideration ([Filing No. 84](#)) is granted.
2. The plaintiff's motions in limine nos. 17, 18, and 19 are denied without prejudice to reassertion at trial.

Dated this 15th day of November, 2019.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge